

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA
FOR THE JUNE 24, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee proposes the following agenda for the June 24, 2015 status conference. Defendants, the Post Confirmation Officer, the FDA, and the Massachusetts Board of Registration in Pharmacy have been given an opportunity to comment on this proposed agenda.

A. Motions for which oral argument is requested.¹

1. Joint Motions re Approval of Virginia Wrongful Death Settlements (*oral argument granted* [Dkt. 1993])
 - a. Joint Motions for Hearing [Dkt. 1937]
 - b. Joint Motion for Approval [forthcoming]
2. Wayne Reed Motion to Set Case for Trial [Dkts. 1882, 1883]
 - a. Tennessee Clinic Defendants' Response [Dkt. 1963]
 - b. St. Thomas's Response [Dkt. 1968]
3. Motions to Withdraw as Counsel
 - a. Motions to Withdraw as Attorney for Ameridose [Dkt. 1936, 1979]
 - b. Motion to Withdraw as Attorney for Barry Cadden, Lisa Conigliaro Cadden, Glenn Chin, Carla Conigliaro, Douglas Conigliaro, Greg Conigliaro [Dkt. 1940]
 - c. Motion to Withdraw as Attorney for GDC [Dkt. 1947]
 - d. Tennessee Clinic Defendants Response (forthcoming)

¹ These motions are also identified in the PSC's Motion to Schedule Oral Argument [Dkt. 1998].

B. Report to the Court.

4. Status of bankruptcy
 - a. PSC's Motion to Appoint Judge Neiman Appeals Administrator [Dkt. 1946]
 - b. Post Confirmation Officer's Motion for Partial Withdrawal of the Reference re Implementing Plan [Dkt. 1962]
5. Status of insurance declaratory actions
 - a. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS; *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
 - b. *State Farm Fire and Casualty Company v. Specialty Surgery Center PLLC, et al.*, 2:15-cv-00026 (M.D. Tenn.)
6. Status of discovery
 - a. Motion to Quash filed by Massachusetts Board of Registration in Pharmacy (*See* #20, *infra*)
 - b. PSC, Premier, St. Thomas, and Box Hill Proposed Pretrial Schedules [Dkt. 1995]
 - c. Order denying Cumberland Medical's Motion to Quash Subpoena [Dkt. 1990]
7. Status of litigation track
 - a. Order re pending motions in original actions [Dkt. 1906]
 - i. PSC's Response [Dkt. 1999]
 - b. Order granting PSC's Motions for Orders to Show Cause re Dismissals [Dkt. 1992]
 - c. Ameridose Motion for Order [Dkt. 1929]
 - i. PSC's Opposition [Dkt. 1985]
 - d. GDC's Motion for Order [Dkt. 1933]
 - i. PSC's Opposition [Dkt. 1986]
8. Report from *Pro Se* Liaison
9. Status of appeals
10. Schedule for future status conferences
 - a. August 5, 2015, at 11:30 a.m. (Boal) and 2:00 p.m. (Zobel)
 - b. September 10, 2015 at 11:30 am (Boal) and 2:00 p.m. (Zobel)

C. Fully-briefed motions.

11. Motions re Pretrial Schedules

- a. Saint Thomas Entities' Motion for Continuance of Common Issue Fact Discovery Deadline [Dkts. 1849, 1850, and 1851]
 - i. TN Clinic Defendants' Notice of Joinder in 1849 Saint Thomas Entities' Motion for Continuance of Common Issue Fact Discovery Deadline [Dkt. 1877]
 - ii. PSC's Response [Dkt. 1901]
- b. Premier Motion for Extension of Time to December 15, 2015 for Common Fact Discovery [Dkt. 1852]
- c. PSC's Cross Motion to Amend MDL Order No. 9 [Dkt. 1867, 1868]
 - i. Premier Reply and Opposition to PSC Cross Motion [Dkt. 1874]
 - ii. Box Hill's Opposition [Dkt. 1949]
 - iii. Premier's Opposition [Dkt. 1950]
 - iv. Anonymous Healthcare Providers' Opposition [Dkt. 1956]
 - v. St. Thomas's Response [Dkt. 1957]
 - vi. Tennessee Clinic Defendants' Response [Dkt. 1958]
- d. Box Hill Motion for Stay or to Extend Common Issue Fact Discovery Deadline and Opposition to PSC Cross-Motion [Dkt. 1889]
 - vii. PSC's Opposition [Dkt. 1900]
 - viii. PSC's Amended Proposed MDL Order No. 9 [Dkt. 1900-1]
(*PSC's comprehensive scheduling proposal*)
- e. Bellwether Submissions (*Replies waived*)
 - ix. PSC Memorandum on Initial Trial Setting and Pretrial Deadlines for the St. Thomas-Related Defendants [Dkt. 1866]
 - x. Saint Thomas Entities' Proposal for Bellwether Trials [Dkt. 1870]
 - xi. TN Clinic Defendants Memorandum on Bellwether Trials [Dkt. 1871]

12. Ameridose Motion for Protective Order and to Quash Deposition Notice [Dkts. 1879, 1880]

- a. St. Thomas's Opposition [Dkt. 1943]

- b. St. Thomas Cross Motion to Compel Ameridose to Produce Documents and Corporate Witness [Dkt. 1945]
 - c. Ameridose Response [Dkt. 1997]
- 13. TN Clinic Defendants Motion to Compel FDA's Compliance with Subpoena [Dkt. 1775] (*Argued on May 28, 2015 before Judge Boal*)
 - a. TN Clinic Defendants' Notice re Motion to Compel of Service of Motion on Non-Party [Dkt. 1777]
 - b. TN Clinic Defendants Notice re Postponement of Deposition [Dkt. 1778]
 - c. TN Clinic Defendants Certificate of Compliance with Local Rule 37.1 in support of Motion to Compel Response to Subpoena to the United States Food and Drug Administration [Dkt. 1793]
- 14. FDA Motion for Protective Order [Dkt. 1838] (*Argued on May 28, 2015 before Judge Boal*)
 - a. TN Clinic Defendants Response [Dkt. 1881]
 - b. PSC's Response [Dkt. 1902]
- 15. Motions to Quash by NECC Trustee, Affiliated Entities, and Insiders (*Argued on May 28, 2015 before Judge Boal*)
 - a. Trustee Motion for Protective Order Pursuant to Fed. R. Civ. P 26(c) and 45(c) precluding the Tennessee Clinic Defendants from Conducting a Deposition [Dkt. 1810]
 - xii. TN Clinic Defendants Response [Dkt. 1862]
 - b. Barry J. Cadden, Lisa Conigliaro Cadden, Gregory Conigliaro, Carla Conigliaro, Douglas Conigliaro, and Glenn A. Chin Motion for Protective Order and Motion to Quash Deposition Notices to the Invoking Defendants [Dkt. 1823]
 - i. Premier Defendants Response [Dkt. 1860]
 - ii. TN Clinic Defendants Response [Dkt. 1865]
 - iii. Invoking Defendants' Reply [Dkt. 1893]
 - c. Ameridose Motion for Joinder in the Motion for a Protective Order filed by Certain Individual Defendants [Dkt. 1824]

- d. GDC Motion for Joinder in the Motion for a Protective Order filed by Certain Individual Defendants and Motion for Protective Order [Dkt. 1826]
 - e. PSC Response to Motions for Protective Order [Dkt. 1839]
 - f. GDC Motion to Quash [Dkt. 1836]
 - iv. St. Thomas's Opposition [Dkt. 1894]
 - g. MSM Motion for Joinder in the Invoking Defendants' Motion for Protective Order [Dkt. 1854]
 - v. Premier Opposition [Dkt. 1860]
 - h. Saint Thomas Entities' Opposition re 1823, 1824, 1826, 1836, 1854 to the Invoking Defendants' Motions for Protective Orders and to Quash Deposition Notices [Dkt. 1869]
16. TN Clinic Defendants Motion to Compel PSC to Respond to Discovery Served by the Tennessee Clinic Defendants and Motion to Deem Requests Admitted [Dkt. 1830] (*no oral argument requested*)
- a. Stipulation on Extension of Time for PSC to Respond [Dkt. 1873]
 - b. PSC's Opposition [Dkt. 1887]

D. Briefing in progress.

17. Choice of Law Briefing

- a. Letters
 - i. Premier Defendants' letter [Dkt. 1915]
 - ii. BKC's (*et al.*) letter [Dkt. 1921]
 - iii. Box Hill's (*et al.*) letter [Dkt. 1922]
- b. Three Pagers
 - iv. PSC's Statement [Dkt. 1924]
 - v. Trustee's Statement [Dkt. 1925]
 - vi. St. Thomas's Statement [Dkt. 1926]
 - vii. Tennessee Clinic Defendants [Dkt. 1942]
 - viii. Premier's Statement [Dkt. 1927]

- ix. GDC's Statement [Dkt. 1928]
- x. FDA's Statement [Dkt. 1948]
- c. Order re Choice of Law Issues [Dkt.1938]
- d. Briefs in Response to Order:
 - xi. PSC's Response [forthcoming]
 - xii. St. Thomas's Response [forthcoming]
 - xiii. Tennessee Clinic Defendants' Response [forthcoming]
- 18. Tennessee Clinic Defendants' Motion to Set Case for Trial
 - a. *Alexander v. Ameridose* [Dkt. 1964]
 - b. *Parman v. Ameridose* [Dkt. 1965]
 - a. PSC's Response [forthcoming]
- 19. Ameridose's Motion to Destroy 100 Pallets of Paper Records Pertaining to its Recalled Products [Dkt. 1980]
- 20. Massachusetts Board of Registration in Pharmacy's Motion for Protective Order [Dkts. 1975, 1976]
- 21. Box Hill Motion to Dismiss [Dkt.1639]
 - a. Plaintiffs' Opposition [Dkt. 1944]
- 22. Dr. Chowdhury's Motion to Dismiss [*Gilliam v. Chowdhury*, 15-cv-11367, Dkt. 11]
 - a. Plaintiff's Opposition [*Gilliam v. Chowdhury*, 15-cv-11367, Dkt. 14]
- 23. Inspira Motion for Protective Order regarding Premier deposition notices [Dkt. 2000]

Dated: June 22, 2015

Respectfully submitted,

/s/ **Kristen A. Johnson**

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CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Proposed Agenda to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: June 22, 2015

/s/ **Kristen A. Johnson**
Kristen A. Johnson, BBO # 667261